

employees of the national bank or its affiliates.

**§ 4.74 One-year post-employment restrictions.**

An officer or employee of the OCC who serves as the senior examiner of a national bank for two or more months during the last twelve months of such individual's employment with the OCC may not, within one year after leaving the employment of the OCC, knowingly accept compensation as an employee, officer, director or consultant from the national bank, or any company (including a bank holding company) that controls the national bank.

**§ 4.75 Effective date; waivers.**

The post-employment restrictions set forth in section 10(k) of the FDI Act and § 4.74 do not apply to any officer or employee of the OCC, or any former officer or employee of the OCC, if—

(a) The individual ceased to be an officer or employee of the OCC before December 17, 2005; or

(b) The Comptroller of the Currency certifies, in writing and on a case-by-case basis, that granting the individual a waiver of the restrictions would not affect the integrity of the OCC's supervisory program.

**§ 4.76 Penalties.**

(a) *Penalties under section 10(k) of FDI Act.* If a senior examiner of a national bank, after leaving the employment of the OCC, accepts compensation as an employee, officer, director, or consultant from that bank, or any company (including a bank holding company) that controls that bank, then the examiner shall, in accordance with section 10(k)(6) of the FDI Act, be subject to one of the following penalties—

(1) An order—

(i) Removing the individual from office or prohibiting the individual from further participation in the affairs of the relevant national bank, bank holding company, or other company that controls such institution for a period of up to five years; and

(ii) Prohibiting the individual from participating in the affairs of any insured depository institution for a period of up to five years; or

(2) A civil monetary penalty of not more than \$250,000.

(b) *Enforcement by appropriate Federal banking agency.* Violations of § 4.74 shall be administered or enforced by the appropriate Federal banking agency for the depository institution or depository institution holding company that provided compensation to the former senior examiner. For purposes of this paragraph, the appropriate Federal banking agency for a company that is not a depository institution or depository institution holding company shall be the Federal banking agency that formerly employed the senior examiner.

(c) *Scope of prohibition orders.* Any senior examiner who is subject to an order issued under paragraph (a) of this section shall, as required by 12 U.S.C. 1820(k)(6)(B), be subject to paragraphs (6) and (7) of section 8(e) of the FDI Act (12 U.S.C. 1818(e)(6)–(7)) in the same manner and to the same extent as a person subject to an order issued under section 8(e).

(d) *Procedures.* The procedures applicable to actions under paragraph (a) of this section are provided in section 10(k)(6) of the FDI Act (12 U.S.C. 1820(k)(6)) and in 12 CFR part 19.

(e) *Remedies not exclusive.* The OCC may seek both of the penalties described in paragraph (a) of this section. In addition, a senior examiner who accepts compensation as described in § 4.74 may be subject to other administrative, civil or criminal remedies or penalties as provided in law.

**PART 5—RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES**

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AUTHORITY: 12 U.S.C. 1 *et seq.*, 93a, 215a–2, 215a–3, 481, and section 5136A of the Revised Statutes (12 U.S.C. 24a).

SOURCE: 61 FR 60363, Nov. 27, 1996, unless otherwise noted.

#### § 5.1 Scope.

This part establishes rules, policies and procedures of the Office of the Comptroller of the Currency (OCC) for corporate activities and transactions involving national banks. It contains

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information on rules of general and specific applicability, where and how to file, and requirements and policies applicable to filings. This part also establishes the corporate filing procedures for Federal branches and agencies of foreign banks.

### Subpart A—Rules of General Applicability

#### § 5.2 Rules of general applicability.

(a) *General.* The rules in this subpart apply to all sections in this part unless otherwise stated.

(b) *Exceptions.* The OCC may adopt materially different procedures for a particular filing, or class of filings, in exceptional circumstances or for unusual transactions, after providing notice of the change to the applicant and to any other party that the OCC determines should receive notice.

(c) *Additional information.* The “Comptroller’s Licensing Manual” (Manual) provides additional guidance, including policies, procedures, and sample forms. The Manual is available on the OCC’s Internet Web page at <http://www.occ.treas.gov>. Printed copies are available for a fee from Publications, Communications Division, Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219–0001.

(d) *Electronic filing.* The OCC may permit electronic filing for any class of filings. The Manual identifies filings that may be made electronically and describes the procedures that the OCC requires in those cases.

[61 FR 60363, Nov. 27, 1996, as amended at 68 FR 17892, Apr. 14, 2003]

#### § 5.3 Definitions.

(a) *Applicant* means a person or entity that submits a notice or application to the OCC under this part.

(b) *Application* means a submission requesting OCC approval to engage in various corporate activities and transactions.

(c) *Appropriate district office* means:

(1) The Licensing Department for all national bank subsidiaries of those holding companies assigned to the Washington, DC, licensing unit;

(2) The appropriate OCC district office for all national bank subsidiaries